

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

MARVEL CHARACTERS, INC.,
Plaintiff and Counterclaim-Defendant,

v.

LAWRENCE D. LIEBER,
Defendant and Counterclaimant.

Case No.: 1:21-cv-7955-LAK
and consolidated cases
21-cv-7957-LAK and 21-cv-7959-LAK

Hon. Lewis A. Kaplan

**DECLARATION OF MOLLY M. LENS
IN SUPPORT OF MARVEL
CHARACTERS INC.'S MOTION TO
EXCLUDE THE EXPERT REPORTS
AND TESTIMONY OF MARK
EVANIER**

MARVEL CHARACTERS, INC.,
Plaintiff and Counterclaim-Defendant,

v.

KEITH A. DETTWILER, in his capacity as
Executor of the Estate of Donald L. Heck,
Defendant and Counterclaimant.

MARVEL CHARACTERS, INC.,
Plaintiff and Counterclaim-Defendant,

v.

PATRICK S. DITKO, in his capacity as
Administrator of the Estate of Stephen J.
Ditko,

Defendant and Counterclaimant.

I, Molly M. Lens, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am a partner at O'Melveny & Myers LLP, counsel for plaintiff Marvel Characters, Inc. ("MCI") in this action, and a member of the Bar of this Court. I submit this declaration in support of MCI's motion to exclude the expert reports and testimony of Mark Evanier based on my personal knowledge and review of the documents referenced herein. If called and sworn as a witness, I could and would testify competently thereto.

2. Attached hereto as **Exhibit 1** is a true and correct copy of the supplemental opening report of Mark Evanier, served by Defendant in this matter on February 7, 2023.

3. Attached hereto as **Exhibit 2** is a true and correct copy of the rebuttal report of Mark Evanier, served by Defendant in this matter on February 15, 2023.

4. Attached hereto as **Exhibit 3** is a true and correct copy of excerpts from the transcript of the March 3, 2023 deposition of Mark Evanier in this matter.

5. Attached hereto as **Exhibit 4** is a true and correct copy of the opening report of Mark Evanier served in *Marvel Worldwide, Inc. v. Lisa R. Kirby*, No. 1:10-cv-00141 (S.D.N.Y.), which was produced by MCI in this matter, bearing the Bates numbers 2021MARVEL-0127026-049.

6. Attached hereto as **Exhibit 5** is a true and correct copy of excerpts from the trial transcript in *In re Marvel Entertainment Group, Inc., et al.*, No. 97-638-RMM (D. Del.), which was produced in full by MCI in this matter, bearing the Bates numbers 2021MARVEL-0038483-715.

7. Attached hereto as **Exhibit 6** is a true and correct copy of the operative complaint in this matter, filed by Marvel Characters, Inc. on September 24, 2021.

8. Attached hereto as **Exhibit 7** is a true and correct copy of the operative counterclaim in this matter, filed by Defendant Patrick S. Ditko on December 7, 2021.

I declare under penalty of perjury that the foregoing is true and correct, and was executed on May 19, 2023 in Los Angeles, CA.

By:  _____

Molly M. Lens